



Paper No. 14

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SEP 06 2002

OFFICE OF PETITIONS

In re Application of
Capitant et al.
Application No. 09/332,489
Filed: June 14, 1999
Attorney Docket No. S828.312-0002

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)
:

This is a decision on the "Request for Reconsideration of Decision Dismissing Petition (Renewed Petition under 37 CFR 1.47(a)), " filed on May 31, 2002 (Certificate of Mailing date May 15, 2002), that 5 joint-inventors be allowed to file the application on behalf of themselves and the remaining joint-inventors who allegedly refuse to join in this application.

The renewed petition is **GRANTED**.

In response to a July 16, 1999 Notice to File Missing Parts of Application, a declaration signed by 5 of the 8 joint-inventors for the invention claimed in this application, accompanied a petition under 37 CFR 1.47(a) and an alternative petition under 37 CFR 1.47(b), was filed on January 21, 2000. The petition under 37 CFR 1.47(a) requests that the signing inventors be allowed to file the application on behalf of themselves and Arnaud Capitant ("Capitant"), Sophie Frey ("Frey") and Olivier Jean-Marie ("Jean-Marie") who allegedly refused to join in this application. The §1.47(a) petition was dismissed on March 18, 2002 for lacking sufficient showing that a copy of the entire application (specification including claims; drawings) had been sent to each of Capitant, Frey and Jean-Marie for review prior to the alleged refusals by these individuals to join in the application. The §1.47(b) petition was dismissed as inappropriate in the same decision because §1.47(b) is only applicable when none of the inventors signs the declaration.

The instant renewed petition supplements the January 21, 2000 petition by supplying copies of 3 declarations by a Herve Gosson ("Gosson") ("Gosson Declarations") concerning Capitant, Frey and Jean-Marie, respectively. These declarations and the accompanying exhibits¹ show that a copy of the application (specification including claims; drawings) was mailed by Gosson to each of these individuals on April 10, 2002,² and that they all refused to join in this application by not returning signed documents as requested.³ The petition is thus granted and the "Declaration for

¹ Copies of the 4/10/02 transmittal letters from Gosson and the mailing labels.

² Gosson Declaration, 2nd to last paragraph.

³ Gosson Declaration, 2nd to last paragraph, last sentence. Although the Gosson Declarations are dated 5/3/02, the Office assumes that as of 5/15/02 when the instant renewed petition was mailed, counsel's best knowledge was that Gosson had not heard from any of the 3 non-signing inventors indicating contrary intentions. **If this assumption is incorrect, counsel must notify the Office upon receipt of this Decision.**

Utility Patent Application (37 CFR 1.63)" signed only by 5 joint-inventors and submitted on January 21, 2000 ("1/21/00 Declaration") is hereby accepted. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to each of the 3 non-signing inventors at their last known addresses provided in the petition:

Arnaud Capitant
1 Allée de la Brède
45650 Saint Jean Le Blanc
France

Sophie Frey
55 Rue de Paris
78100 Saint Germain en Laye
France

Olivier Jean-Marie
4 Résidence Martin
78490 Bazoches
France

Notice of the filing of this application will also be published in the *Official Gazette*.

Finally, the Office agrees with the "Request for Refund (37 CFR 1.47(a))," filed concurrently with the instant renewed petition, requesting refund of the \$490 for a fifth month extension-of-time for responding to the July 16, 1999 Notice of Missing Parts, and a \$130 surcharge for late filing of the basic filing fee, both charged by the Office to counsel's deposit account as indicated in the March 18, 2002 decision.⁴ These fees are hereby credited to Deposit Account No. 11-0982.

The application is being returned to the Office of Initial Patent Examination for further processing with respect to the 1/21/00 Declaration, and for issuance of a Filing Receipt if one has not yet been issued. Thereafter, the application will be forwarded to Technology Center 2700 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.



Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

⁴ As reminded by counsel, 1/17/00 (Monday) was also Martin Luther King's Birthday, a Federal holiday, rendering the obtained 4-month extension of time sufficient with respect to the 1/18/00 Certificate of Mailing. Also, since the declaration (accompanied by a \$1.47 petition) and the application basic filing fee were submitted simultaneously, only 1 surcharge of \$130 should have incurred.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Arnaud Capitant
1 Allée de la Brède
45650 Saint Jean Le Blanc
France

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OFFICE OF PETITIONS

LETTER

In re Application of
Capitant et al.
Application No. 09/332,489
Filed: June 14, 1999
For: PROCESS FOR MAKING REMOTE
PAYMENTS FOR THE PURCHASE OF
GOODS AND/OR A SERVICE
THROUGH A MOBILE
RADIOTELEPHONE, AND
CORRESPONDING SYSTEM AND
MOBILE RADIOTELEPHONE

Dear Mr. Capitant,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Jeffrey D. Shewchuk, Esq.
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312 South Third Street
Minneapolis, MN 55415-1002



UNITED STATES PATENT AND TRADEMARK OFFICE

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Sophie Frey
55 Rue de Paris
78100 Saint Germain en Laye
France

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GOODS AND/OR A SERVICE
THROUGH A MOBILE
RADIOTELEPHONE, AND
CORRESPONDING SYSTEM AND
MOBILE RADIOTELEPHONE

LETTER

Dear Ms. Frey,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint inventor.

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Olivier Jean-Marie
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THROUGH A MOBILE
RADIOTELEPHONE, AND
CORRESPONDING SYSTEM AND
MOBILE RADIOTELEPHONE

Dear Mr. Jean-Marie,

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a) (Rules of Practice for the United States Patent and Trademark Office [USPTO]). Should a patent be granted on the application, you will be designated therein as a joint inventor.

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